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7
8 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. C110912-12

11 **RICHARD ADEOKUN**
12 **3789 Brunell Street**
Oakland, CA 94602

ACCUSATION

13 **Real Estate Appraiser License No. 032969**

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
19 (Complainant), brings this Accusation solely in her official capacity as Chief of Enforcement for
20 Complainant.

21 2. On or about January 4, 2008, the Director of the Office of Real Estate Appraisers
22 issued Real Estate Appraiser License Number 032969 to Richard Adeokun (Respondent). The
23 Real Estate Appraiser License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on January 29, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Director of the Office of Real Estate Appraisers
27 (Director), under the authority of the following laws. All section references are to the Business
28 and Professions Code unless otherwise indicated.

1 4. Business and Professions Code section 11313 states, in pertinent part:

2 "The office [Office of Real Estate Appraisers] is under the supervision and control of the
3 secretary [secretary of the Business, Transportation and Housing Agency]. The duty of enforcing
4 and administering this part is vested in the director [director of the Office of Real Estate
5 Appraisers] and he or she is responsible to the secretary therefor. The director shall adopt and
6 enforce rules and regulations as are determined reasonably necessary to carry out the purposes of
7 this part."

8 5. Business and Professions Code section 11316, subdivision (a) states:

9 "(a) The director may assess a fine against a licensee, applicant for licensure, person who
10 acts in a capacity that requires a license under this part, course provider, applicant for course
11 provider accreditation, or a person who, or entity that, acts in a capacity that requires course
12 provider accreditation for violation of this part or any regulations adopted to carry out its
13 purposes."

14 6. Business and Professions Code section 11319 states:

15 "Notwithstanding any other provision of this code, the Uniform Standards of Professional
16 Appraisal Practice constitute the minimum standard of conduct and performance for a licensee in
17 any work or service performed that is addressed by those standards. If a licensee also is certified
18 by the Board of Equalization, he or she shall follow the standards established by the Board of
19 Equalization when fulfilling his or her responsibilities for assessment purposes."

20 7. California Code of Regulations, title 10, section 3701 states:

21 "Every holder of a license under this part shall conform to and observe the Uniform
22 Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto
23 as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards
24 are herein incorporated into these regulations by reference as if fully set forth herein."

25 8. California Code of Regulations, title 10, section 3721 states:

26 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public
27 reproval, suspend or revoke any license or Certificate of Registration, and/or may deny the
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1 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
2 capacity requiring a license or Certificate of Registration who has:

3
4 "(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or
5 another, or to injure another;

6
7 "(6) Violated any provision of USPAP;

8 "(7) Violated any provision of the Real Estate Appraisers' Licensing and Certification Law,
9 Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or
10 regulations promulgated pursuant thereto; or any provision of the Business and Professions Code
11 applicable to applicants for or holders of licenses authorizing appraisals;

12
13 "(b) Before issuing any private or public reproof or denying, suspending, or revoking any
14 license or Certificate of Registration issued or issuable under the provisions of the Real Estate
15 Appraisers Licensing and Certification Law or these regulations, the Office shall proceed as
16 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
17 the Government Code (the Administrative Procedure Act) and the Office shall have all the
18 powers granted therein.

19
20 9. California Code of Regulations, title 10, section 3702(a) states:

21 (a) The Director finds and declares as follows:

22 "(1) That the profession of real estate appraisal is vested with a fiduciary relationship of
23 trust and confidence as to clients, lending institutions, and both public and private guarantors or
24 insurers of funds in federally-related real estate transactions and that the qualifications of honesty,
25 candor, integrity, and trustworthiness are directly and substantially related to and indispensable to
26 the practice of the appraisal profession;

27 "(2) That registered Appraisal Management Companies are vested with a relationship of
28 trust and confidence as to their clients, lending institutions, and both public and private guarantors

1 or insurers of funds in federally-related real estate transactions and that the qualifications of
2 honesty, candor, integrity, and trustworthiness are directly and substantially related to and
3 indispensable to their business operations; and

4 "(3) Every holder of a license to practice real estate appraisal, Registrant, Controlling
5 Person of an Appraisal Management Company, or person or entity acting in a capacity requiring a
6 license or Certificate of Registration shall be required to demonstrate by his or her conduct that he
7 or she possesses the qualifications of honesty, candor, integrity, and trustworthiness. "

8 10. Title 10, California Code of Regulations, section 3705, states:

9 "(a) Every appraisal report subject to the Uniform Standards of Professional Appraisal
10 Practice upon final completion shall bear the signature and license number of the appraiser and of
11 the supervising appraiser, if appropriate. The affixing of such signature and number constitute the
12 acceptance by the appraiser and supervising appraiser of full and personal responsibility for the
13 accuracy, content, and integrity of the appraisal under Standards Rules 1 and 2 of USPAP.

14 "(b) Every review appraisal report upon final completion shall bear the signature and
15 license number of the reviewer. The affixing of such signature and number shall constitute
16 acceptance by the reviewer of responsibility for the review under Standard Rule 3 of USPAP.

17 "(c) The license number of the appraiser, and of the review appraiser if the report is a
18 review, shall appear with each signature throughout the appraisal or review document."

19 11. Business and Professions Code section 11409, subdivision (a) states:

20 "Except as otherwise provided by law, any order issued in resolution of a disciplinary
21 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that
22 requires a license under this part, registrant, applicant for a certificate of registration, course
23 provider, applicant for course provider accreditation, or a person who, or entity that, acts in a
24 capacity that requires course provider accreditation found to have committed a violation or
25 violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to
26 exceed the reasonable costs of investigation, enforcement, and prosecution of the case."

27 2008 UNIFORM STANDARDS OF APPRAISAL PRACTICE

28 12. USPAP Standards Rule 1-1 states:

1 In developing a real property appraisal, an appraiser must:

2 (a) be aware of, understand, and correctly employ those recognized methods and techniques
3 that are necessary to produce a credible appraisal;

4 (b) not commit a substantial error of omission or commission that significantly affects an
5 appraisal; and

6 (c) not render appraisal services in a careless or negligent manner, such as by making a
7 series of errors that, although individually might not significantly affect the results of an
8 appraisal, in the aggregate affects the credibility of those results.

9 13. USPAP Standards Rule 1-2 states:

10 In developing a real property appraisal, an appraiser must:

11 (a) identify the client and other intended users;

12 (b) identify the intended use of the appraiser's opinions and conclusions;

13 (c) identify the type and definition of value, and, if the value opinion to be developed is
14 market value, ascertain whether the value is to be the most probable price:

15 (i) in terms of cash; or

16 (ii) in terms of financial arrangements equivalent to cash; or

17 (iii) in other precisely defined terms; and

18 (iv) if the opinion of value is to be based on non-market financing or financing with
19 unusual conditions or incentives, the terms of such financing must be clearly identified and the
20 appraiser's opinion of their contributions to or negative influence on value must be developed by
21 analysis of relevant market data;

22 (d) identify the effective date of the appraiser's opinions and conclusions;

23 (e) identify the characteristics of the property that are relevant to the purpose and intended
24 use of the appraisal, including:

25 (i) its location and physical, legal, and economic attributes;

26 (ii) the real property interest to be valued;

27 (iii) any personal property, trade fixtures, or intangible items that are not real property but
28 are included in the appraisal;

1 (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants,
2 contracts, declarations, special assessments, ordinances, or other items of similar nature; and

3 (v) whether the subject property is a fractional interest, physical segment, or partial
4 holding;

5 (f) identify any extraordinary assumptions necessary in the assignment;

6 (g) identify any hypothetical conditions in the assignment; and

7 (h) determine the scope of work necessary to produce credible assignment results in
8 accordance with the SCOPE OF WORK RULE.

9 14. USPAP Standard Rule 1-4 states:

10 In developing a real property appraisal, an appraiser must collect, verify, and analyze all
11 information necessary for credible assignment results.

12 (a) When a sales comparison approach is necessary for credible assignment results, an
13 appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

14 (b) When a cost approach is necessary for credible assignment results, an appraiser must:

15 (i) develop an opinion of site value by an appropriate appraisal method or technique;

16 (ii) analyze such comparable cost data as are available to estimate the cost new of the
17 improvements (if any); and

18 (iii) analyze such comparable data as are available to estimate the difference between the
19 cost new and the present worth of the improvements (accrued depreciation).

20 (c) When an income approach is necessary for credible assignment results, an appraiser
21 must:

22 (i) analyze such comparable rental data as are available and/or the potential earnings
23 capacity of the property to estimate the gross income potential of the property;

24 (ii) analyze such comparable operating expense data as are available to estimate the
25 operating expenses of the property;

26 (iii) analyze such comparable data as are available to estimate rates of capitalization and/or
27 rates of discount; and
28

1 (iv) base projections of future rent and/or income potential and expenses on reasonably
2 clear and appropriate evidence.

3 (d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an
4 appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

5 (e) When analyzing the assemblage of the various estates or component parts of a property,
6 an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain
7 from valuing the whole solely by adding together the individual values of the various estates or
8 component parts.

9 (f) When analyzing anticipated public or private improvements, located on or off the site,
10 an appraiser must analyze the effect on value, if any, of such anticipated improvements to the
11 extent they are reflected in market actions.

12 (g) When personal property, trade fixtures, or intangible items are included in the
13 appraisal, the appraiser must analyze the effect on value of such non-real property items.

14 15. USPAP Standards Rule 2-1 states:

15 Each written or oral real property appraisal report must:

16 (a) clearly and accurately set forth the appraisal in a manner that will not be misleading.

17 (b) contain sufficient information to enable the intended users of the appraisal to
18 understand the report properly; and

19 (c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical
20 conditions, and limiting conditions used in the assignment.

21 16. USPAP Standards Rule 2-2 states:

22 Each written real property appraisal report must be prepared under one of the following
23 three options and prominently state which option is used: Self-Contained Appraisal Report,
24 Summary Appraisal Report, or Restricted Use Appraisal Report.

25 (a) The content of a Self-Contained Appraisal Report must be consistent with the intended
26 use of the appraisal and, at a minimum:

27 (i) state the identity of the client and any intended users, by name or type;

28 (ii) state the intended use of the appraisal;

- 1 (iii) describe information sufficient to identify the real estate involved in the appraisal,
2 including the physical and economic property characteristics relevant to the assignment;
- 3 (iv) state the real property interest appraised;
- 4 (v) state the type and definition of value and cite the source of the definition;
- 5 (vi) state the effective date of the appraisal and the date of the report;
- 6 (vii) describe the scope of work used to develop the appraisal;
- 7 (viii) describe the information analyzed, the appraisal methods and techniques employed,
8 and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales
9 comparison approach, cost approach, or income approach must be explained;
- 10 (ix) state the use of the real estate existing as of the date of value and the use of the real
11 estate reflected in the appraisal; and, when an opinion of highest and best use was developed by
12 the appraiser, describe the support and rationale for that opinion;
- 13 (x) clearly and conspicuously:
14 state all extraordinary assumptions and hypothetical conditions; and
15 state that their use might have affected the assignment results; and
- 16 (xi) include a signed certification in accordance with Standards Rule 2-3.
- 17 (b) The content of a Summary Appraisal Report must be consistent with the intended use
18 of the appraisal, and, at a minimum;
- 19 (i) state the identity of the client and any intended users, by name or type;
- 20 (ii) state the intended use of the appraisal;
- 21 (iii) summarize information sufficient to identify the real estate involved in the appraisal,
22 including the physical and economic property characteristics relevant to the assignment;
- 23 (iv) state the real property interest appraised;
- 24 (v) state the type and definition of value and cite the source of the definition;
- 25 (vi) state the effective date of the appraisal and the date of the report;
- 26 (vii) summarize the scope of work used to develop the appraisal;
- 27
- 28

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;

(x) clearly and conspicuously:

state all extraordinary assumptions and hypothetical conditions; and

state that their use might have affected the assignment results; and

(xi) include a signed certification in accordance with Standards Rule 2-3.

(c) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, by name or type;

(ii) state the intended use of the appraisal;

(iii) state information sufficient to identify the real estate involved in the appraisal;

(iv) state the real property interest appraised;

(v) state the type of value, and cite the source of its definition;;

(vi) state the effective date of the appraisal and the date of the report.

(vii) state the scope of work used to develop the appraisal;

(viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, state that opinion;

(x) clearly and conspicuously:

state all extraordinary assumptions and hypothetical conditions; and

state that their use might have affected the assignment results; and

(xi) include a signed certification in accordance with Standards Rule 2-3.

17. The USPAP ETHICS RULE states, in pertinent part:

"To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The first three sections apply to all appraisal practice, and all four sections apply to appraisal practice performed under Standards 1 through 10."

"Compliance with USPAP is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

"An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice."

"Conduct:

"An appraiser must perform assignments ethically and competently, in accordance with USPAP.

"An appraiser must not engage in criminal conduct.

"An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

"An appraiser must not advocate the cause or interest of any party or issue.

"An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.

"An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

"An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value."

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1 CAUSE FOR DISCIPLINE

2 (1205 TRENTON BLVD., SAN PABLO, CALIFORNIA)

3 18. On or about February 18, 2008, Respondent completed a real estate appraisal report
4 for property described as 1205 Trenton Blvd., San Pablo, California. Respondent is subject to
5 disciplinary action under Regulation section 3721, subdivisions (a)(6) and (a)(7), by and through
6 his violations of Regulation sections 3701, 3702 subdivisions (a)(1) and (a)(3), and the following
7 USPAP violations:

- 8 a. Respondent grossly overstated the predominant neighborhood value for one-unit
9 housing as \$470,000.00. This error gave undue credibility to the normalcy for the area
10 of a \$470,000.00 opinion of market value for the subject property, in violation of
11 USPAP Standards Rule ("S.R.") 1-2(e)(i) and 2-2(b)(iii).
- 12 b. Respondent completed a misleading report by inaccurately developing, reporting, and
13 analyzing data used in the Sales Comparison Approach, in violation of S.R. 1-2(h), 1-
14 4(a), 2-2(b)(vii), and 2-2(b)(viii) as follows:
- 15 i. Respondent identified neighborhood market conditions as declining but failed
16 to make a negative adjustment for date of sale, or alternatively, state why an
17 adjustment was not utilized;
- 18 ii. Respondent failed to report and analyze that all five of the properties compared
19 to the subject were detached homes while the subject was an attached home;
- 20 iii. The data source for Comparable Sale Two, Three, and Four was identified as
21 MLS (Multiple Listing Service) when it was, in fact, not. The reference to
22 MLS as a data source gives undue credibility to these comparables and is
23 misleading.
- 24 iv. Respondent failed to analyze the MLS listing history of Comparable Sale One
25 which indicated the asking price had been reduced from \$499,000.00 to
26 \$449,000.00 and that the property was exposed to the market for 50 days
27 before the listing was canceled, and the relevance to a subsequent non-MLS
28 sale at \$515,000.00 in a period when one-unit housing prices were declining;

- v. Respondent failed to analyze the MLS listing history of Comparable Sale Two which indicated the asking price was \$399,950.00 and that the property was exposed to the market for 110 days before the listing was canceled, and the relevance to a subsequent non-MLS sale at \$417,000.00 in a period when one-unit housing prices were declining;
- vi. The MLS provenance of the photographs of Comparable Sale Two, Four, and Five were not identified, and each photograph had been modified to eliminate the MLS copyright and watermark;
- vii. The photograph of Comparable Sale Three was not of the actual property;
- viii. Comparable Sale Four was an involuntary sale of the property to satisfy a financial lien on the property (\$450,000.00 sale price), and was not an arm's-length transaction. Respondent used the photograph from a post-sale MLS listing of the property (\$284,000.00 asking price) and therefore had actual notice the sale used was neither arm's-length nor market value; and
- ix. Comparable Sale Five was located in a gated community which was neither reported nor analyzed by Respondent.
- c. Respondent completed a misleading report by inaccurately developing, reporting, and analyzing data used in the Rent Comparison Analysis, in violation of S.R. 1-2(h) and 2-2(b)(vii), as follows:
- i. The data source for Rent Comparable One, Two, and Three was cited as Bay Rentals when it was, in fact, not. The reference to Bay Rentals as a data source gives undue credibility to these comparables and was misleading; and
- ii. The MLS provenance of the photographs of Rent Comparable One, Two, and Three were not identified, and each photograph had been modified to eliminate the MLS copyright and watermark;
- d. Based on b. and c. above, Respondent's report was not credible, in violation of S.R. 1-1(a), and

e. Based on a., b., and c. above, Respondent's report was misleading, in violation of S.R. 2-1(a) and the Conduct section of the Ethics Rule.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Office of Real Estate Appraisers issue a decision:

1. Revoking or suspending Real Estate Appraiser License Number 032969, issued to Richard Adeokun;

2. Ordering Richard Adeokun to pay the Director of the Office of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;

3. Ordering Richard Adeokun to pay the Director of the Office of Real Estate Appraisers a fine pursuant to Business and Professions Code section 11316; and

4. Taking such other and further action as deemed necessary and proper.

DATED: 10/5/12

Original Signed

ELIZABETH SEATERS
Chief of Enforcement
Office of Real Estate Appraisers
State of California
Complainant

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